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December 2, 1997

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VIA HAND DELIVERY

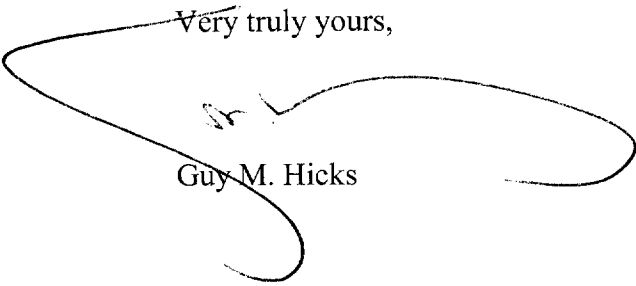
David Waddell, Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37238

Re: *Universal Service Generic Contested Case*  
Docket No. 97-00888

Dear Mr. Waddell:

Enclosed are the original and thirteen copies of the rebuttal testimony of Peter F. Martin and Dr. Richard D. Emmerson on behalf of BellSouth Telecommunications, Inc. in the above-referenced matter. A copy has been provided to counsel of record.

Very truly yours,



Guy M. Hicks

GMH:ch

Enclosure

1  
2 **REBUTTAL TESTIMONY OF DR. RICHARD D. EMMERSON**  
3 **ON BEHALF OF BELL SOUTH TELECOMMUNICATIONS, INC.**  
4 **BEFORE THE TENNESSEE REGULATORY AUTHORITY**  
5 **DOCKET NO. 97-00888: Phase I NON-COST ISSUES**  
6 **DECEMBER 2, 1997**

7  
8 **I. INTRODUCTION**

9  
10 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

11 A. My name is Richard D. Emmerson. I am the President and CEO of INDETEC  
12 International, Inc. My business address is 445 Marine View Avenue, Del Mar,  
13 California 92014.

14  
15 Q. ARE YOU THE SAME RICHARD D. EMMERSON WHO FILED DIRECT  
16 TESTIMONY IN THIS PROCEEDING ON NOVEMBER 12, 1997?

17 A. Yes. In that testimony I described my education and experience relevant to the  
18 issues in this proceeding.

19  
20 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

21 A. I rebut certain aspects of the testimony of Dr. Beard, Mr. Guepe, Mr. Harper, and  
22 Mr. Hyde.

23  
24 **II. IT IS IMPORTANT TO COMPARE THE COSTS OF UNIVERSAL**  
25 **SERVICE WITH THE REVENUES FROM UNIVERSAL SERVICE TO**  
26 **DETERMINE THE SUBSIDY FOR UNIVERSAL SERVICE**

27  
28 Q. OTHER WITNESSES DISCUSS EXPLICIT AND IMPLICIT SUBSIDIES (FOR  
29 EXAMPLE, MR. HARPER AT PAGE 4 AND DR. BEARD AT PAGES 32, 35).  
30 WHAT ARE IMPLICIT AND EXPLICIT SUBSIDIES?

1 A. A service receives a subsidy when its revenues are less than its costs. An implicit  
2 subsidy is one that is paid for by the other services provided by the company or by  
3 the stockholders of the company. An explicit subsidy is one that would be more  
4 broadly funded by all telecommunications providers sharing in the universal  
5 service burden through an explicit funding mechanism. Implicit funding to  
6 support high cost areas may evaporate as customer's choose alternate providers;  
7 this should not be true with a competitively neutral explicit universal service fund.  
8

9 Q. HAVE OTHER PARTIES PROPOSED CONSIDERATION OF REVENUES  
10 BEYOND UNIVERSAL SERVICE REVENUES?

11 A. Yes. For example, Mr. Hyde (page 10) recommends consideration of toll  
12 revenues. Mr. Guepe (page 8) suggests considering "other appropriate revenues,  
13 such as yellow pages."  
14

15 Q. SHOULD REVENUES FROM TOLL, VERTICAL SERVICES, CARRIER  
16 ACCESS SERVICES OR YELLOW PAGES BE INCLUDED IN A  
17 UNIVERSAL SERVICE SUBSIDY EVALUATION?

18 A. No. The notion of including loosely related revenues in calculating universal  
19 service support is simply incorrect. The standard for determining the universal  
20 service subsidy is a comparison of the *revenues from universal service with the*  
21 *costs of universal service*. Both the costs and the revenues should be specific to  
22 the definition of universal service. Including other revenues perpetuates the  
23 implicit subsidies of the past, which is counter to the Telecommunications Act  
24 and the FCC Universal Service Order.  
25

26 Q. EVEN IF ONE WERE TO ACCEPT THE INCORRECT NOTION OF  
27 INCLUDING REVENUES FROM SERVICES OTHER THAN UNIVERSAL  
28 SERVICE, WHAT PECULIAR RESULTS WOULD RESULT?

29 A. Part of the peculiarity of such a notion is that it would seem to require  
30 consideration of different revenues for different universal service providers. With

1 this incorrect notion, whether toll, yellow pages, terminal equipment, interLATA  
2 toll or other services are considered would seem to depend on which LEC or  
3 CLEC is providing service. This obviously contradicts the concept of a single  
4 calculation for a portable fund and a competitively neutral funding mechanism.

5  
6 Once this mistaken revenue notion is begun, there appears to be no natural ending  
7 point. The implied criteria for this mistaken notion appears to be that revenues  
8 that are even loosely related to the provider or the use of a telephone are germane.  
9 This would lead to absurd results that are not competitively neutral. For example,  
10 if one believed that intraLATA toll revenues should be considered for an ILEC,  
11 then AT&T's and MCI's local service operations should include interLATA toll  
12 in its stream of revenues. Similarly, AT&T's (before Lucent Technologies was  
13 spun off) local service operations would have to include the sale of terminal  
14 equipment. Revenues from a LEC expanding into telemarketing or phone-in  
15 pizza delivery would also seem to be subject to this approach.

16  
17 **DR. BEARD AND MR. SHEPHERD HAVE BLURRED THE**  
18 **DISTINCTION BETWEEN SUBSIDIES TO HIGH-COST AREAS AND**  
19 **SUBSIDIES TO LOW-INCOME CONSUMERS**  
20

21 Q. DOES THE FCC UNIVERSAL SERVICE ORDER PROVIDE FOR  
22 SUBSIDIES TO CARRIERS SERVING *RURAL, INSULAR, AND HIGH COST*  
23 *AREAS*?

24 A. Yes. At paragraph 6 of the FCC Universal Service Order it states: "We will  
25 provide universal service support to carriers serving rural, insular, and high cost  
26 areas through a mechanism based on forward-looking economic costs ..." The  
27 order discusses subsidies to carriers for high cost, rural and insular areas in detail  
28 at paragraphs 199 to 325.

1 Q. DOES THE FCC UNIVERSAL SERVICE PROVIDE FOR SUBSIDIES  
2 TARGETED TO *LOW INCOME CUSTOMERS*?

3 A. Yes. At paragraphs 326 to 409, the FCC Universal Service Order discusses  
4 support for low-income customers. These programs are clearly distinct and  
5 separate from the programs that will establish subsidies to providers serving rural  
6 high cost and insular areas.

7

8 Q. DO MR. SHEPHERD AND DR. BEARD SIMULTANEOUSLY DISCUSS  
9 HIGH COST SERVICE AND SUBSIDIES TO LOW INCOME CONSUMERS?

10 A. Yes. Mr. Shepherd (testifying on behalf of Time Warner), beginning at page 8,  
11 mixes the concepts of subsidies to high cost areas and subsidies targeted to low  
12 income consumers. His attachments rely upon the mixing of these two concepts.

13

14 Dr. Beard (testifying on behalf of AT&T) states at page 19: [f]irst, funds  
15 disbursed in support of universal service goals must be narrowly targeted at those  
16 consumers for whom the subsidy is important in assuring network subscription.”

17

18 Q. DOES THIS MIXING OF CONCEPTS BLUR THE ISSUES BEFORE THE  
19 AUTHORITY?

20 A. Yes. It is critical to distinguish between subsidies targeted to the provision of  
21 service to low-income consumers (who effectively receive prices different from  
22 other customers) and subsidies to LECs providing service to rural, high cost and  
23 insular areas. The FCC Universal Service Order clearly establishes guidelines for  
24 these two separate paths for funding universal service. To mix the concepts is  
25 counter to the fundamental plan for universal service established by the FCC.

26

27 Q. AT PAGE 9 MR. HYDE IMPLIES THAT THE COSTS OF VERTICAL  
28 SERVICES AND SWITCHED ACCESS SERVICES ARE INCLUDED IN  
29 PROXY MODEL CALCULATIONS OF UNIVERSAL SERVICE. HOW DO  
30 YOU RESPOND?

1 A. First, as I noted above, the standard for determining the required explicit subsidy  
2 for universal service compares the costs of universal service with the revenues  
3 from universal service. Therefore, it is not appropriate to include the revenues or  
4 the costs from vertical services or switched access services in a universal service  
5 funding calculation. Second, neither the Hatfield Model nor the Benchmark Cost  
6 Proxy Model produce estimates of universal service costs that include the costs of  
7 vertical services or switched access interconnection.

8  
9 **MR. HARPER'S DISCUSSION OF PRICE SQUEEZES IS INCORRECT**  
10 **AND IRRELEVANT TO THIS PROCEEDING.**

11  
12 Q. DOES MR. HARPER'S HYPOTHETICAL "PRICE SQUEEZE ONE"  
13 SCENARIO (GMH-2) MAKE ECONOMIC SENSE?

14 A. No. His hypothetical scenario is one in which he claims a LEC would cut its  
15 intraLATA toll price so low as to squeeze its switched access customers out of the  
16 market.<sup>1</sup> Engaging in such a price squeeze would cause the LEC to lose money,  
17 i.e., the incumbent LEC can earn more contribution by selling switched access to  
18 its switched access customers rather than attempting to squeeze them out of the  
19 market.<sup>2</sup> A rational LEC would not engage in such a money-losing venture.

20  
21 In addition, the whole notion of squeezing AT&T and MCI out of the intraLATA  
22 toll market is absurd. These firms and/or their assets will be available to provide  
23 intraLATA toll service at any time to customers who find their services of value.  
24 This is particularly true when AT&T and MCI can offer both intraLATA and

---

<sup>1</sup> In his hypothetical he asserts the LEC prices intraLATA toll at \$.10, while he asserts the interexchange carrier's face costs of over \$.124.

<sup>2</sup> In Mr. Harper's hypothetical, at a price of \$.10 for toll, the LEC only earns \$.045 in contribution to cover its shared and common costs and to assist in covering implicit subsidies. In contrast, the LEC would earn \$.069 in contribution by selling switched access to other retail providers. This is the access price of \$.074 on the right hand side of the diagram less the access cost of \$.005 on the left hand side of the diagram. This assumes of course that the costs to the LEC of providing access to itself is the same as the costs of providing access to others, i.e., that there are no economies of vertical integration.

1 interLATA services to customers while some LECs such as BellSouth presently  
2 cannot.

3

4 Q. IN HIS OTHER TWO SCENARIOS, MR. HARPER IMPLIES THAT IT IS  
5 NECESSARY TO PRICE SWITCHED ACCESS AT INCREMENTAL COST  
6 IN ORDER TO PREVENT A PRICE SQUEEZE. IS THIS CORRECT?

7 A. Absolutely not. Mr. Harper himself discusses the significant contributions  
8 generated from switched access service. If pricing inputs at incremental cost were  
9 necessary to prevent a price squeeze (which it is not), then all toll services would  
10 already be subject to a price squeeze and intraLATA toll competition could never  
11 have existed. Obviously, intraLATA toll competition does exist because such a  
12 pricing policy is not necessary to prevent an anticompetitive price squeeze.

13

14 Mr. Harper's notion of a price squeeze is vague and undefined. His scenarios  
15 don't provide any insight into sound public policy.

16

17 Q. DOES THIS CONCLUDE YOUR TESTIMONY

18 A. Yes it does.

19

AFFIDAVIT

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

BEFORE, ME, the undersigned authority, duly commissioned and qualified in and for the State and County aforesaid, personally came and appeared Richard Emmerson, INDETEC International, who, being by me first duly sworn, deposed and said that:

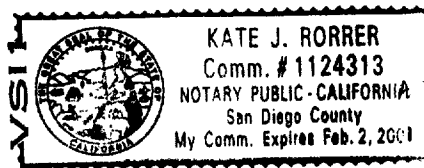
He is appearing as a witness before the Tennessee Regulatory Authority in Docket No. 97-00888 on behalf of BellSouth Telecommunications, Inc., and if present before the Authority and duly sworn, his testimony would be as set forth in the annexed Testimony consisting of 6 pages and 0 exhibit (s).

  
RICHARD EMMERSON

SWORN TO AND  
SUBSCRIBED BEFORE ME  
this the 26<sup>th</sup> day  
of November, 1997.

  
NOTARY PUBLIC

My Commission expires: 2/2/2001





## CERTIFICATE OF SERVICE

I hereby certify that on December 2, 1997, a copy of the foregoing document was served on the parties of record, via hand delivery, fax, or U. S. Mail, postage pre-paid, addressed as follows:

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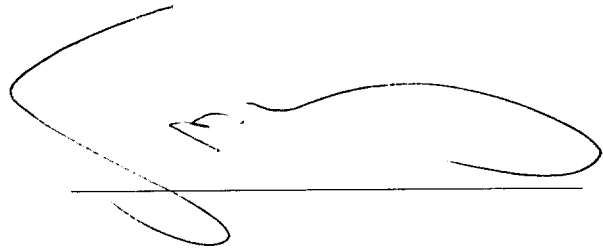
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A handwritten signature in black ink, appearing to be "J. W. Dempster", written over a horizontal line.

**BELLSOUTH TELECOMMUNICATIONS, INC.**

**REBUTTAL TESTIMONY OF PETER F. MARTIN**

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**DOCKET NO. 97-00888**

**DECEMBER 2, 1997**

Q. PLEASED STATE YOUR NAME, ADDRESS AND POSITION WITH BELLSOUTH TELECOMMUNICATIONS, INC. (HEREINAFTER REFERRED TO AS "BST" OR "THE COMPANY")

A. My name is Peter F. Martin and I am employed by BellSouth Telecommunications, Inc. as a Director in Regulatory Policy. My business address is 675 West Peachtree Street, Atlanta, Georgia 30375.

Q. ARE YOU THE SAME PETER F. MARTIN WHO FILED TESTIMONY IN THIS PROCEEDING ON NOVEMBER 12, 1997?

A. Yes.

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. Specifically, my testimony rebuts or comments upon issues raised in the testimony of T. Randolph Beard (AT&T Communications of the South Central States, Inc. and

1 MCI Telecommunications Corporation), Richard Guepe (AT&T Communications of  
2 the South Central States, Inc.), G. Michael Harper (AT&T Communications of the  
3 South Central States, Inc.), Thomas Hyde (MCI Telecommunications Corporation),  
4 Donald F. Shephard (Time Warner Communications of the Mid-South, L.P.), and  
5 William Barta (Tennessee Cable Telecommunications Association).

6

7 Q. DO YOU AGREE WITH DR. BEARD AND MR. GUEPE THAT UNIVERSAL  
8 SERVICE SUBSIDIES SHOULD BE TARGETED AT ONLY THOSE HOUSEHOLDS  
9 WHERE A SUBSIDY MAKES A DIFFERENCE IN THE SUBSCRIPTION  
10 DECISION?

11

12 A. No, I do not. Both Dr. Beard and Mr. Guepe appear to be mixing the concepts of  
13 low income support and high cost support. High cost support and low income  
14 support are fundamentally different. There are two types of universal service  
15 support necessary for consumers in Tennessee. The first is income related and  
16 consists of support (e.g., Lifeline) for low-income consumers. The second relates to  
17 the cost of service, not the economic need of a particular end user.

18

19 The high cost fund is designed to provide support to an Eligible Telecommunications  
20 Carrier ("ETC") for providing universal service to a group of customers in a small  
21 geographic area who pay a rate which is below the cost of providing service to that  
22 area. It ensures that carriers will continue to provide service to an area where the

1 costs to provide the service are greater than the revenues generated by the  
2 universal service rate. A customer's income has no bearing on whether a local  
3 exchange company can cover its costs for a given area when its rates are below  
4 cost.

5  
6 Indeed, neither the Telecommunications Act of 1996 ("the Act") nor T.C.A. 65-5-207  
7 distinguishes between income groups in their mandates to provide access to  
8 telecommunications services by consumers. The FCC also does not use income  
9 level as a determining factor in high cost support in its May 8, 1997 Order.

10  
11 Q. EVEN IF DR. BEARD'S PROPOSAL FOR UNIVERSAL SERVICE COMPLIED  
12 WITH THE TELECOMMUNICATIONS ACT, COULD IT BE ADMINISTERED?

13  
14 A. No. Dr. Beard states that high cost assistance should be targeted at individual  
15 households on a means-tested basis. This proposal is ridiculously complex.  
16 Support would have to be determined for all customers based upon their income,  
17 and each subscriber would receive a bill for a different amount based on their  
18 household income. Dr. Beard might willingly disclose his income to an ETC, but it  
19 is unlikely most people would be as forthcoming.

20  
21 Mr. Shepherd also raises the issue of limiting universal service funding to  
22 households with incomes below the 70th income percentile. As I stated above, this

1 is contrary to the 1996 Act and Tennessee law and is administratively unworkable.  
2 In addition, it would seem to be unfair. Under his proposal, consumers in some rural  
3 parts of Tennessee could end up paying rates possibly greater than \$100/month,  
4 unless they are below the 70th income percentile. Such an outcome would likely  
5 make service unaffordable even for many middle income subscribers.

6

7 Q. DO YOU AGREE WITH DR. BEARD THAT THE UNIVERSAL SERVICE FUNDING  
8 MECHANISM SHOULD BE COMPETITIVELY NEUTRAL?

9

10 A. Absolutely. Support should be available to any eligible telecommunications carrier  
11 willing to provide service to any customer who requests service in a designated  
12 service area.

13

14 Q. MR. SHEPHEARD PROPOSES CONTINUATION OF IMPLICIT SUBSIDIES FROM  
15 SERVICES AND AREAS WHICH ARE ABOVE COST TO SERVICES AND AREAS  
16 THAT ARE BELOW COST. DOES THIS MAKE SENSE?

17

18 A. No. Mr. Shepherd is arguing for the "status quo." He is basically setting up a  
19 situation which discourages competition in rural areas and ensures that no  
20 competition will develop. This is diametrically opposed to the intention of the Act  
21 and the direction by Congress to establish a fund which will support the cost of  
22 universal service in high cost areas. Mr. Shepherd's plan will only stifle

1 competition in high cost areas and ensure that the benefits of local competition will  
2 not be achieved in rural areas. He is also mistaken in believing that in a competitive  
3 environment, services which are above cost and the customers who subscribe to  
4 them, will not be attractive to competitive providers.

5  
6 Q. MR. GUEPE STATES THAT A REVENUE BENCHMARK SHOULD INCLUDE  
7 LOCAL, DISCRETIONARY AND ACCESS SERVICES. DO YOU AGREE?

8  
9 A. No. It is inappropriate to include within any revenue benchmark services that  
10 include the implicit support which explicit universal service support is meant to  
11 replace. Mr. Guepe states that the Federal-State Joint Board supports a nationwide  
12 revenue benchmark. Although initially the Federal-State Joint Board did support a  
13 nationwide revenue benchmark, upon reconsideration a majority of the State  
14 representatives on the Joint Board recommended a different benchmark than the  
15 one selected by the FCC for use in calculating federal USF support.

16  
17 Q. MR. GUEPE AND MR. HYDE IMPLY THAT THE STATE SHOULD SELECT THE  
18 SAME BENCHMARK AS CHOSEN BY THE FCC. DOES THE FCC REQUIRE  
19 STATES TO ADOPT THE SAME REVENUE BENCHMARK AS ADOPTED BY THE  
20 FCC IN ORDER NOT TO BE INCONSISTENT WITH FEDERAL REQUIREMENTS?



1 A. No. In fact, in a recent Public Notice dated November 12, 1997 (Attachment 1), the  
2 FCC stated that state regulatory Commissions have "sole jurisdiction over their  
3 universal service programs" and "could provide support based on a benchmark that  
4 is different from the one used to determine federal support levels."

5  
6 Q. WHY IS IT IMPORTANT FOR THE STATE TO SELECT THE APPROPRIATE  
7 BENCHMARK?

8  
9 A. The determination of the appropriate benchmark is one of the crucial factors in  
10 ensuring that rural customers will receive the benefits of local competition. If the  
11 benchmark is set too high, support will be artificially depressed, and an ETC will not  
12 receive adequate support for the cost of providing service to a high cost area. This,  
13 in turn, will dis-incent competitors from entering an area. Also, the 1996  
14 Telecommunications Act said that universal service support should be explicit; an  
15 inappropriately high benchmark will simply result in a continuation of implicit support.  
16

17 Q. DO YOU AGREE WITH MR. GUEPE THAT SUPPORT SHOULD ONLY BE  
18 PROVIDED FOR PRIMARY RESIDENTIAL LINES?

19  
20 A. No. There is a need for limited support for single line business lines in high cost  
21 areas. This was recognized by the FCC in its May 8, 1997 Order. Mr. Guepe states  
22 that if a business is incapable of paying a cost-based rate for telecommunications

1 services, it does not need to stay in business. However, many single line  
2 businesses might not be able to afford to pay cost based rates in very high cost  
3 areas. And, if they go out of business, as recommended by Mr. Guepe, residents in  
4 rural areas would be disadvantaged.

5

6 Q. FOR PURPOSES OF DEFINING SERVICE AREAS, MR. GUEPE STATES THAT  
7 THE TRA SHOULD DEFINE SERVICE AREAS IN NON-RURAL AREAS AS NO  
8 LARGER THAN EXISTING WIRE CENTERS. DO YOU AGREE?

9

10 A. Yes. Designated service areas for all providers should be based on areas no larger  
11 than existing wire centers. This should be consistent with the geographic area used  
12 to determine the costs for universal service support. For example, one competitor  
13 should not be able to target only an apartment complex and receive support for this  
14 small area. Once it is determined that support should be calculated on either a  
15 serving wire center or census block group basis, then all eligible carriers should be  
16 required to provide service throughout an entire area in order to receive universal  
17 service support for that area.

18

19 Q. HAVE MR. GUEPE AND MR. HYDE UTILIZED THE CORRECT SERVICE  
20 REVENUES AND COSTS IN THEIR PROPOSED CALCULATION OF UNIVERSAL  
21 SERVICE SUPPORT?

22

1 A. No. To my knowledge, both of the cost models under consideration develop only  
2 the cost of basic local exchange service. Thus, there is a mismatch between the  
3 costs developed in the universal service cost models and the revenues proposed by  
4 Mr. Guepe. Indeed, in testimony prepared for the universal service proceeding in  
5 Kentucky, Mr. Hyde recognized this mismatch and acknowledged that the costs of  
6 providing switched access and toll services are not captured in the Hatfield Model.  
7 For a true “apples to apples” comparison, the revenues for basic local exchange  
8 service should be compared to the costs of providing basic local exchange service.

9

10 Q. DO YOU AGREE WITH MR. HARPER THAT THE TRA NEED NOT SEPARATELY  
11 DETERMINE THE AMOUNT OF IMPLICIT SUBSIDIES CONTAINED IN CURRENT  
12 RATES?

13

14 A. Yes. The only way to determine the amount of implicit subsidy for universal service  
15 that is built into other rates is to determine the difference between the rates and the  
16 cost of the supported services.

17

18 Q. MR. BARTA SUGGESTS THAT LECs BE REQUIRED TO DO FULLY  
19 DISTRIBUTED COST STUDIES AS WELL AS FORWARD LOOKING ECONOMIC  
20 COST STUDIES. DO YOU CONCUR?

21

1 A. No. Such an outcome is unnecessary and would be administratively burdensome.  
2 The FCC has already made it clear that it will only consider forward looking  
3 economic cost studies.  
4

5 Q. MR. HARPER AND THE OTHER AT&T WITNESSES SAY THAT ACCESS  
6 CHARGES SHOULD BE REDUCED TO "FORWARD LOOKING" COST  
7 REGARDLESS OF HOW MUCH EXPLICIT UNIVERSAL SERVICE SUPPORT IS  
8 CALCULATED. DO YOU CONCUR?  
9

10 A. No, absolutely not. Telecommunications service charges, including switched  
11 access charges, should be reduced in total by the net amount of universal service  
12 support that is received. That is what happens when implicit support is made  
13 explicit, as intended by the 1996 Act.  
14

15 If the amount of explicit universal service support that is calculated does not allow  
16 switched access rates to be set at an economic level, then competition should be  
17 relied upon to drive down access prices toward economic cost. Such a market  
18 based approach is totally consistent with the approach taken at the federal level by  
19 the FCC. Indeed, relying on competition to drive down prices rather than  
20 regulation is also more consistent with the deregulatory thrust of the 1996  
21 Telecommunications Act. Also, I am not aware of any state that has implemented

1 AT&T's approach and Mr. Harper has failed to cite any states where AT&T's views  
2 have been adopted.

3

4 Q. DO YOU AGREE WITH MR. SHEPHEARD'S ASSERTION THAT THE CARRIER  
5 WHICH INCURS THE COST OF PROVIDING SERVICE TO A CUSTOMER  
6 SHOULD RECEIVE THE RELATED UNIVERSAL SERVICE SUPPORT?

7

8 A. Yes, although I do not agree with Mr. Shepherd's interpretation of the Order. Mr.  
9 Shepherd argues that the FCC left a loophole for resellers to get the universal  
10 service support by simply providing access to operator services. While I am not an  
11 attorney, I believe that a correct reading of the Order properly gives universal  
12 service support to the underlying provider, not the reseller. In Paragraph 169 of the  
13 FCC's Order, the FCC says that a carrier could satisfy the section 214(e) facilities  
14 requirement by using its own facilities to provide access to operator services.  
15 However, that only applies to being designated as an ETC. In Paragraph 174, the  
16 FCC says that "a carrier that serves customers by reselling wholesale service may  
17 not receive universal service support for those customers that it serves through  
18 resale alone." I believe that statement is fairly clear. If, on the other hand, the FCC  
19 truly created such a loophole as described by Mr. Shepherd, then I concur with his  
20 conclusion that the loophole should be closed.

21

1 Q. MR. BARTA SUGGESTS THAT THE TRA MAY WISH TO CONVERT IMPLICIT  
2 SUBSIDIES TO EXPLICIT SUPPORT OVER A THREE-YEAR PERIOD. IS THIS  
3 WORKABLE?

4  
5 A. A transition could work if it were carefully developed to ensure competitive  
6 neutrality. Of course, the reductions in implicit support would have to be tied to the  
7 creation of explicit support (i.e., the rate reductions would have to be phased-in).  
8 However, while a transition plan might be workable, it should be considered a  
9 distant second best solution to the immediate creation of a sufficient and explicit  
10 state universal service fund.

11  
12 Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

13  
14 A. Yes, it does.



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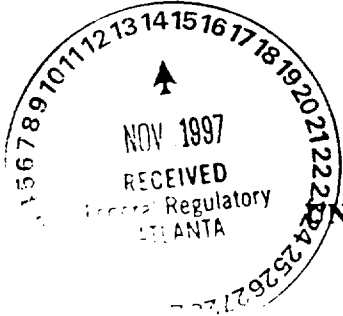
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DA 97-2383

Released November 12, 1997



**FREQUENTLY ASKED QUESTIONS ON  
UNIVERSAL SERVICE SUPPORT FOR NON-RURAL CARRIERS  
SERVING RURAL, INSULAR, AND HIGH COST AREAS  
CC Docket Nos. 96-45 and 97-160**

**1. May a state submit a state benchmark as part of its state cost study?**

No. In the *Universal Service Report and Order*<sup>1</sup> (the "*Order*"), the Commission adopted, as recommended by the Joint Board, a nationwide revenue benchmark. The *Order* allows states to submit state cost studies as a means of determining the forward-looking economic cost of providing the services supported by the federal universal service program in a given state. State cost studies would take the place of the Commission's forward-looking cost mechanism, but not the Commission's benchmark.

**2. To what extent may states modify, for purposes of determining state universal service support, the cost studies that they submit to determine federal universal service support?**

The *Order* allows state cost studies to be used in the federal program to determine the forward-looking cost of providing supported services in those states that submit such studies. The *Order* specifies that if a state cost study is used to determine federal universal service support levels, however, that state cost study "must be the same cost study that is used by the state to determine intrastate universal service support levels." Thus, a state cost study that is submitted to determine federal support levels will not be accepted if a state changes the way that its cost study computes forward-looking cost for its state universal service program. For example, a state could not alter the study's cost calculations to compute intrastate support, such as by changing the area over which support is calculated, and still expect the study to be used to determine federal support levels. As long as the state uses the same cost study as the basis for computing the cost of providing supported services in the state program, and the cost study is otherwise consistent with the criteria for cost studies described in para. 250 of the

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<sup>1</sup> Federal State Joint Board on Universal Service, CC Docket No. 96-45, *Report & Order*, 62 Fed. Reg. 32,862 (1997).

*Order*, that state cost study can also be submitted to compute federal support. The *Order* does not place any restrictions, however, on how states structure their universal service programs. As long as the state programs do not conflict with the federal mechanisms and are consistent with section 253, state regulators have sole jurisdiction over their universal service programs. Thus, for example, states could provide intrastate support for advanced services that are not supported by federal mechanisms or could provide support according to a benchmark that is different from the one used to determine federal support levels.

**3. May a state submit separate cost studies for each LEC in the state?**

In the *Order*, the Commission encouraged states, to the extent possible and consistent with the criteria specified in para. 250 of the *Order*, to use their unbundled network element cost studies as a basis for universal service cost studies. The *Order* further specifies that state cost studies will only be used to determine federal support levels if they are based on forward-looking economic cost. It has been brought to the Bureau's attention that many states are performing forward-looking cost studies to price unbundled network elements on a company-specific basis. In order to ensure maximum coordination between state cost studies for unbundled network element prices and universal service costs, states may file cost studies that incorporate company-specific assumptions or data. Each cost study must meet the criteria established in para. 250 of the *Order*.

**4. Is state certification as an "eligible telecommunications carrier" under section 214(e) necessary for an existing carrier that is currently receiving federal universal service support to continue to receive support after January 1, 1998?**

Yes, only carriers that are designated as eligible telecommunications carriers by a state commission pursuant to section 214(e) may receive federal universal service support after January 1, 1998 for serving rural, insular, and high cost areas (high cost support) or for providing Lifeline and Link Up services (low income support). There are no exceptions to this requirement for existing carriers, whether rural or non-rural, to continue to receive federal high cost and low income support after January 1, 1998. In order to receive support for providing supported services to eligible health care providers, carriers must also be designated as eligible telecommunications carriers by a state commission, unless support is only sought for providing toll-free access to an Internet service provider, as described in section 54.621(a) of the Commission's rules. Carriers do not have to be designated as eligible telecommunications carriers to receive support for providing supported services to eligible schools and libraries.

For further information, please contact Natalie Wales at (202) 418-7389 or Chuck Keller at (202) 418-7380.

- FCC -




AFFIDAVIT

STATE OF GEORGIA

COUNTY OF FULTON

BEFORE ME, the undersigned authority, duly commissioned and qualified in and for the State and County aforesaid, personally came and appeared Peter F. Martin, BellSouth Telecommunicatins, Inc., who being by me first duly sworn deposed and said that:

He is appearing as a witness before the Tennessee Regulatory Authority in Docket No. 97-00888 on behalf of BellSouth Telecommunications, Inc., and if present before the Authority and duly sworn, his testimony would be set forth in the annexed testimony consisting of 11 pages and 1 exhibit(s).

  
Peter F. Martin

Sworn to and Subscribed  
Before Me this the 25  
day of November, 1997

  
NOTARY PUBLIC

My Commission Expires:

**TERESA L. ROCKWELL**  
Notary Public, Gwinnett County, Georgia  
My Commission Expires October 28, 2001

## CERTIFICATE OF SERVICE

I hereby certify that on December 2, 1997, a copy of the foregoing document was served on the parties of record, via hand delivery, fax, or U. S. Mail, postage pre-paid, addressed as follows:

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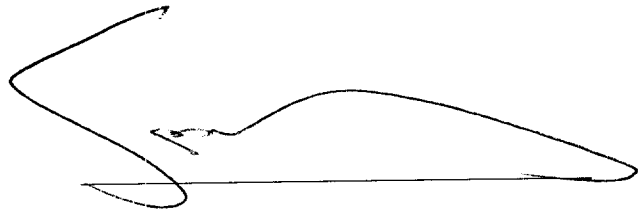
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A handwritten signature in black ink, featuring a large, sweeping loop on the left side and a horizontal line extending to the right.